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TAGS: [IZ](#) [KDEM](#) [KWMN](#) [PGOV](#) [SOCI](#)  
SUBJECT: ARTICLE 142 CONSTITUTIONAL AMENDMENT PROCESS DRAWS  
TO A CLOSE

REF: A. BAGHDAD 887  
[1](#)B. BAGHDAD 1579

Classified By: Deputy Political Counselor Steve Walker for Reason 1.4 (d).

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Summary  
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[1](#)1. (SBU) After nearly four years, the work of the Article 142 Constitutional Review Committee (CRC) is finally drawing to a close. The vast majority of the approximately 60 proposed amendments that will be submitted to the Parliament would make only technical or minor cosmetic changes to the Constitution, but three possible amendments are particularly noteworthy. The first outlines the establishment of a Federation Council, which would serve as an upper, supervisory chamber to the current Council of Representatives. The second would change the language of Article 41 concerning Iraqi's personal status in a way that Iraqi women's rights advocates believe could restrict women's rights, although lobbying efforts seem to have delayed the consideration of this amendment. A third amendment, still under discussion within the CRC, would change Article 18 to limit the transference of citizenship when a child has only one Iraqi parent, creating another potential concern for Iraqi women. The proposed amendments avoid the highly controversial issues of Kirkuk, oil and gas, powers of the regions and the powers of the President. Once the CRC has submitted its proposed amendments to the full Parliament an absolute majority vote is required for approval, with the amendments to be approved as a package rather than one by one. If the amendments secure parliamentary approval, they will have to be ratified in a national referendum within 60 days. End summary.

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The Article 142 Constitutional Review Committee  
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[1](#)2. (SBU) Article 142 of the Iraqi Constitution required the formation of a Constitutional Review Committee (CRC) to present to the full Parliament "a report that contains recommendations of the necessary amendments that could be made to the Constitution." Although Article 142 set a deadline of four months for completion of the report, the process has drug out for nearly four years. At times the CRC's work appeared moribund as consensus on divisive issues like Kirkuk, oil and gas, and federalism proved elusive (ref A). However, over the past few months, the CRC appears to have found a renewed sense of purpose and it working to complete its report so that it can get the amendments it has agreed to ratified before the next national election in January 2010.

[1](#)3. (SBU) Part of the explanation for the CRC's renewed focus is that lawmakers are looking to demonstrate legislative accomplishments in anticipation of the parliamentary elections. On June 6, in their weekly message, the Iraqi

Islamic Party (whose Salim Jabouri is deputy chair of the CRC) touted the proposed constitutional amendments as "a great accomplishment for IIP." There is also a sense within the Committee that after four years of work, they must put something forward or it will reflect poorly on the Committee members, many of whom like Chair Humam Hamoudi (ISCI) and Vice-Chair Salim al-Jabouri (IIP/Tawafuk) are serious players on the Iraqi political scene. The CRC will soon present the package of approximately 60 amendments for the full Parliament's consideration. While the vast majority of amendments represent minor technical and cosmetic changes to the Constitution (e.g., changing "work is a right for all of the Iraqis" to "work is a right of every Iraqi"), three amendments stand out as having long-term consequences for Iraq.

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Federation Council  
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14. (SBU) One of the CRC's significant proposed amendments would be to create a Federation Council that would begin work after the 2014 national elections. (Note: Another proposed amendment would extend the Presidency Council for another electoral term with it having the powers of the Federation Council during that time. End note.) The proposed Federation Council would consist of 41 members, two members elected by the people from each of Iraq's 18 governorates along with five appointed representatives. Its primary purpose would be to serve as an advisory body to the Parliament. While the Federation Council would not have the power to initiate legislation, it would have the ability to

BAGHDAD 00001959 002 OF 003

veto draft laws, although the veto could be overridden with an absolute majority vote by Parliament.

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Article 41  
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15. (C) As outlined in ref B, Iraqi women leaders from Sunni and Kurdish parties have furiously lobbied the CRC over the past two months to amend Article 41 of the Constitution to remove language guaranteeing the right of every Iraqi to have his/her personal status determined by their religion and sect. Initial reports from Iraqi women MPs indicated that the CRC's proposed amendment to the Constitution for Article 41 would read "The Iraqi shall have the right to commit to the provisions of his/her religion and sect in personal status issues. The Civil Status Law shall ensure its regulation." Not only would this amendment's language not address the concerns of Iraqi women's rights advocates, it would aggravate them by giving all Iraqis a "right" to base personal status choices on religion rather than simply being "free" to do so. Nevertheless, the lobbying efforts appear to be paying dividends. On July 9, MPs Ala Talabani (PUK) and Maysoon al-Damluji (INL) told Poloff separately that the CRC Chair Humam al-Hamoudi had unofficially agreed to delay discussion of Article 41 to the next Parliamentary session in the face of sustained opposition from Kurdish and Sunni MPs.

16. (C) Part of the explanation as to why Iraqi women leaders have had to resort to outside pressure to influence the CRC is that they lack allies on it. While the CRC has 27 members, only two of them are women. Moreover, the bulk of the Committee's work has been done by a small sub-committee of six to eight members with Alia Nassif (INL) being the lone woman. According to Dr. Haider Hamoudi, a University of Utah professor contracted by the Political Section's Constitutional and Legislative Affairs (CLA) Office to provide technical assistance to the CRC, Nassif is rarely in attendance during the CRC's deliberations and has very little of substance to contribute when she is present. The result has been that issues of concern to many Iraqi women have

generally not been adequately discussed in the CRC. For example, on June 25, MP Tanya Gilly (PUK) told Poloff that a petition with 70 MP signatures calling for the removal of Article 41's language regarding religion and sect had been presented to the CRC Chair Humam Hamoudi and other CRC members, but that it had been shelved and the proposal left undiscussed within the CRC. However, sustained engagement by women MPs from Sunni and Kurdish parties over the past weeks appears to have gotten Hamoudi's attention.

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Citizenship  
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¶7. (C) The lack of a champion for Iraqi women on the CRC has manifested itself in another important way with an ongoing debate within the committee as to whether to amend Article 18 of the Constitution which currently says that "anyone who is born to an Iraqi father or to an Iraqi mother shall be considered an Iraqi." The proposed change would limit the automatic transference of citizenship granted to Iraqi children of one Iraqi parent to circumstances allowed by law.

Before the new Constitution, under Iraqi law, only Iraqi fathers could transfer Iraqi citizenship to their children. The possibility that Iraqi women would be unable to transfer Iraqi citizenship to their children if the father is not also Iraqi would put Iraq outside the mainstream on this women's rights issue, which the vast majority (167 out of 192) nations of the world respect. The outcome of this debate is far from certain. On July 8, Poloff spoke with MP Layla Qfar from certain. On July 8, Poloff spoke with MP Layla al-Khafaji (ISCI) who said that she had not heard any discussion about possible changes to Article 18. She indicated that this would be a "red line" for Iraqi women and that she would raise the issue with her bloc leader Human Hamoudi, who is also the CRC Chair.

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Big Issues Left for Future  
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¶8. (SBU) While the CRC has addressed a number of technical issues in the Constitution, it does not appear that it will put forward any proposed amendments to address sensitive and controversial issues such as Kirkuk, oil and gas, powers of the regions and the powers of the President. From the outset, the CRC seems to have decided to avoid debates on controversial topics that could derail the entire process, instead focusing on the technical and cosmetic changes on which consensus could be reached.

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BAGHDAD 00001959 003 OF 003

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Next Steps  
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¶9. (SBU) Once the CRC has submitted its package of proposed amendments, the full Parliament will need to pass them with an absolute majority of its members. It is notable that the proposed amendments must be voted up or down as a package and cannot be accepted or rejected individually by the full Parliament. If the package of amendments passes, a national referendum must be held within 60 days for them to be ratified. Moreover, any three provinces can reject the package of constitutional amendments, so the changes will likely have to take into account the preferences of the three provinces of the Kurdistan region. It is also unlikely that the Parliament would schedule a vote on them before November when passage would allow the required referendum to be conducted in conjunction with the national parliamentary elections scheduled for January 2010.

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Comment  
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¶10. (C) The renewed energy of the CRC is an encouraging development as it demonstrates a realization on the part of its members that something must be delivered ahead of the 2010 elections. It is also encouraging that Iraqi women appear to have been successful in lobbying for a delay to at least one amendment that they find objectionable, a clear use of the democratic process. There is also an outside chance that the entire work of the CRC will be rejected because of its failure to address the big political issues, which is ostensibly why the committee was formed. We will continue to follow the CRC process as it moves along. End comment.

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